

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

TETHER AND BITFINEX CRYPTO ASSET
LITIGATION

19 Civ. 9236 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

The Court is in receipt of Plaintiffs' letter motion requesting leave to file public, redacted versions of their pending Motion for Leave to File a Second Amended Complaint (the "Motion to Amend"), and the Proposed Second Amended Complaint (the "Proposed SAC") enclosed therein. (See Dkt. #499 (Letter Motion), 499-1 (Motion to Amend), 499-2 (Proposed SAC)). The Court is also in receipt of a letter response from B/T Defendants, which letter encloses a separate letter authored by the individual referred to in this matter as the Anonymous Trader. (Dkt. #508 (B/T Defendants Letter), 508-1 (Anonymous Trader Letter)). While B/T Defendants take no specific position on Plaintiffs' proposed redactions to the Motion to Amend and the Proposed SAC, the Anonymous Trader vigorously opposes Plaintiffs' proposed redactions to both documents.

In reviewing the parties' submissions, the Court is troubled by Plaintiffs' apparent failure to engage with the Anonymous Trader's proposed redactions. (Dkt. #508-1 at 1). The Anonymous Trader remains a non-party to this matter, whose participation in this matter has thus far been voluntary, and pursuant to orders by the Court and agreements amongst the parties to protect the substantial privacy interest of the Anonymous Trader in connection with the

litigation. (*See* Dkt. #215, 288, 451). Such voluntary participation has been essential to the orderly and efficient development of the factual record in this case, and the Court sees no reasons to revisit its directives regarding confidentiality at this juncture. Nor is it a proper use of judicial resources for the Court to review hundreds of pages of disputed redactions by the parties, absent the parties reaching a true impasse. Rather, the Court will require the parties to meet and confer with the Anonymous Trader regarding his proposed redactions.

When doing so, the parties should keep the following guidance in mind. Consistent with the Court's prior orders, any reference to discovery materials containing the Anonymous Trader's personal identifying information should be designated as strictly AEO and redacted. (Dkt. #215, 288, 451). Plaintiffs are correct that mere references to the Anonymous Trader are not necessarily personal identifying information subject to the AEO designation, especially if those references are derived from materials obtained from Defendants pursuant to discovery, or elsewhere in the public domain. Still, to the extent that those references, in whole or in part, allow for the reverse identification of the Anonymous Trader, they should be redacted. Likewise, references to general trading activities need not be redacted, though references to specifically-identifiable trades or patterns of trades should be redacted. Trading data and other materials provided by the Anonymous Trader, as well as non-public information provided during the Anonymous Trader's deposition should also be redacted. As a general point, the Court expects Plaintiffs to

adopt a conservative approach to redactions, given the Anonymous Trader's stated privacy and safety interests in the case, and the potentially lasting consequences of inadvertent disclosure of sensitive information.

CONCLUSION

Accordingly, the parties are hereby ORDERED to meet and confer with the Anonymous Trader regarding the Anonymous Trader's proposed redactions in this matter. Plaintiffs' request for leave to file public versions of the Motion to Amend and Proposed SAC is DENIED without prejudice to renew.

The Clerk of Court is directed to maintain docket entry 508 under seal, viewable to the Court and the parties only, and to terminate the pending motions at docket entries 499, 500, and 507.

SO ORDERED.

Dated: December 18, 2023
New York, New York



KATHERINE POLK FAILLA
United States District Judge